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LOS CEREZOS BROADCASTING COMPANY • 9620 ROCKY AVENUE, NINTH FLOOR • SILVER SPRING, MD 20910 • (301) 589-4800

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December 16, 1992

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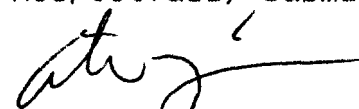
Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Re: MM Docket No. 87-268
Advanced Television Systems

Dear Ms. Searcy:

On behalf of Los Cerezos Television Company, licensee of low power television station W48AW, Washington, D.C., I am transmitting herewith an original and nine copies of its reply comments in response to the Commission's Second Further Notice of Proposed Rule Making in the above-referenced proceeding.

Respectfully submitted,



Antonio Guernica
President
Los Cerezos Television
Company

Enclosures

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In The Matter Of)
)
Advanced Television Systems) MM Docket No. 87-268
and Their Impact Upon the)
Existing Television Broadcast)
Service)

TO: The Commission

Los Cerezos Television Company, licensee of low power television station W48AW, Washington, D.C. and radio station WMDO AM 1540, Silver Spring, Maryland, hereby files its comments in response to the FCC's Second Further Notice of Proposed Rule Making ("Second FNPRM"), FCC 92-332, released August 14, 1992:

As one of the first low power television stations to begin broadcasting in the continental United States, Los Cerezos Television Company has been providing uninterrupted and unduplicated local Spanish language television service to the Washington Metropolitan Area's growing Hispanic population for more than twelve years. The June 29, 1980 sign-on date for Los Cerezos marked the first time in the history of the capital of the United States that the Hispanic and non-Hispanic public gained access to news, information and entertainment television programming in the Spanish language and the first time that the television spectrum was utilized to recognize the local Hispanic community as an integral part of the Washington area viewing public, and to serve it in a significant way.

Today, Los Cerezos airs "Noticias 48," Washington's only regular Spanish language local newscast, "Linea Directa," a national award winning public service program aired weekly and produced by the Office of Latino Affairs of the District of Columbia, "Nuestras Raices," a locally produced weekly award winning cultural program, and regular locally produced television

Specials covering events of direct relevance and service to the Hispanic community. Indeed, Los Cerezos' track record of public service and relevant local origination programming compares favorably to that of many "full power" television stations in the Washington ADI and throughout the United States. Throughout its history, Los Cerezos has been and continues to be an exemplary licensee, encompassing local Hispanic ownership, integration of management and ownership and solid enterprenurial success, poised to continue expanding its service in the public interest.

II. SERVING THE PUBLIC INTEREST

While W48AW, as a LPTV station, may be characterized by the FCC as a secondary service, it is unquestionably of primary priority and service to Washington Area Hispanics, now approaching ten percent of the total ADI population. We would argue confidently that were the Washington Hispanic public to be taken into account and consulted as to their interest in the allocation of ATV frequencies that W48AW would be at the top of their list. Nevertheless, it is the very survival of this vital and economically successful community service, and others like it, that is at stake in the determination of this Rule Making in which relevant, valuable and unduplicated LPTV services stand to be sacrificed in the premature implementation of technological advances of debatable public interest.

When the Mount Pleasant disturbances occurred in Washington, D.C. in May 1991, W48AW aired a one-hour locally produced Spanish language program featuring Mayor Sharon Pratt Kelly to help maintain calm in the nation's capital. W48AW took an active role in solving a difficult and dangerous situation as the only television service to effectively and credibly reach Washington Hispanics. It is impossible to determine how many Washington lives, businesses and homes were saved by the quick actions of Los Cerezos. It is dramatic evidence of the role that W48AW plays in serving the public interest and it is the continuation of this vital service that is at stake in this Rule Making.

The FCC cannot claim that its implementation of ATV services enjoys consensus support even among television broadcasters, who are under no risk whatsoever of having their broadcast services compromised, much less taken away. Quite the contrary, there is a large body of documented opposition among responsible and respected television broadcasters as well as a demonstrable lack of consensus in the broadcast industry as to the proper implementation of ATV services.

The FCC cannot claim that its proposed implementation of ATV services enjoys great public support. There is no demonstrable generalized demand for ATV services among the viewing public. There is not even a whisper, much less a cry, calling for its

implementation as proposed by the FCC. Actually, there is little interest by the public in the implementation of ATV services under artificial deadlines arbitrarily imposed by the FCC claiming that this is a matter ostensibly of great public interest. There is a demonstrable interest among the public in the maintenance of diverse and unduplicated television services.

The fact that W48AW and all other LPTV stations are categorized as secondary services by the FCC does not diminish the quality, relevance and importance of the unique local service that W48AW provides to the public or lessen its weight with respect to the prime regulatory consideration by which the FCC is mandated to judge broadcasters according to the 1934 Communications Act.

Serving the public interest is the fundamental regulatory standard by which the FCC takes the measure of television broadcasters. Serving the public interest is the primal mandate of the 1934 Communications Act. The implementation of ATV services at the expense of services such as W48AW, when there is absolutely no need or urgency to do so, flies in the face of logic. It goes against the prime directive of the 1934 Communications Act and contradicts the underlying regulatory mission of the Federal Communications Commission.

III. THE FCC SHOULD TAKE OPERATING LPTV STATIONS INTO ACCOUNT IN THE ALLOCATION OF ATV CHANNELS

Consequently, Los Cerezos agrees with and supports the COMMENTS filed by the Community Broadcasters Association encouraging the FCC to take operating LPTV stations into consideration in the allocation of ATV services. Operating LPTV stations provide a valuable broadcast service and should be protected where possible. Island Broadcasting already has presented proposals to the FCC showing that allocations could be made in the New York market that would protect LPTV stations. If it can be done in New York, it can certainly be replicated in other markets and LPTV stations most certainly should have the opportunity to present tables of allocations that protect operating services.

IV. FCC RULES DO NOT REQUIRE LPTV'S SECONDARY STATUS TO CARRY OVER TO ATV

Los Cerezos agrees with and supports the COMMENTS filed by the Community Broadcasters Association and by Skinner Broadcasting, Inc. in this Rule Making which argue that it does not follow that LPTV should be considered secondary to the new proposed ATV service. There is nothing in the FCC's Rules that states that the secondary status of LPTV stations applies to theoretical stations or to new types of television services, as is clearly the case with ATV. Moreover, there is nothing in LPTV's secondary status that supports the FCC's intention of extending

LPTV's secondary status, with no consideration whatsoever given to LPTV stations in the ATV service allocation process. Indeed, the FCC's intentions to provide ATV allocations even to long-empty commercial allocations effectively favors a television broadcaster who never provided any NTSC service at the expense of LPTV stations with demonstrable track records of serving the public interest.

V. CONSIDERATION OF TECHNOLOGICAL IMPROVEMENTS

The cornerstone of the FCC's rationale in the implementation of the ATV service is that it represents a technological advancement that will serve the public interest. Neither time nor technological advancement stand still while the FCC conducts tests on the various ATV systems. There are promising technological advancements relevant to the ATV service, such as the patented in-band HDTV system proposed by Leo Zucker of White Plains, New York that is cited by Skinner Broadcasting, Inc. in its COMMENTS that would better serve the public by eliminating the need to displace operating television services, among other improvements. Moreover, technological improvements have taken place since the FCC closed off the competition even among those candidates whose systems are being tested. It is illogical, inconsistent and contrary to the public interest for the FCC to justify the implementation of the new ATV service largely in the name of technological advancement, on one hand, and to cursorily dismiss the consideration and possible incorporation of new technological advancements that stand to improve the ATV service, on the other hand, simply because they have occurred since the competition was closed off.

VI. "UHF PACKING" IS CONTRARY TO THE PUBLIC INTEREST

Los Cerezos agrees with and supports the COMMENTS filed by May & Dunne, Chartered in this Rule Making arguing that an all-UHF ATV service will displace LPTV's unnecessarily and will accelerate LPTV displacement. Los Cerezos also agrees with and supports the COMMENTS filed by Island Broadcasting Co. arguing for an ATV Table of Allotments with a strong VHF preference in order to minimize the displacement of LPTV stations.

Most LPTV stations operate in the UHF band. "UHF Packing" will result in the undue and totally avoidable displacement of valuable LPTV services who will not have an alternative frequency for use once displaced. It also will accelerate the displacement of LPTV stations by concentrating the activation of ATV services in the UHF band where most LPTV's broadcast.

The displacement "remedies" prescribed by the FCC consist of allowing LPTV stations to file displacement applications or interference-curing technical amendments without allowing competing applications. In the real world this will have little

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practical application.

VII. THE FCC SHOULD AVOID EARLY DISPLACEMENT OF
OPERATING LPTV STATIONS IN THE LICENSING PROCESS

Los Cerezos agrees with and supports the COMMENTS filed by the Community Broadcasters Association and by Island Broadcasting Co. that would postpone the displacement of operating LPTV stations due to the "early" activation of ATV services. The FCC should assign non-conflicting ATV allocations to broadcasters as they activate the ATV allocations, protecting channels currently occupied by operating LPTV's and minimizing disruption to existing broadcasting services and the viewing public.

VIII. CONCLUSION

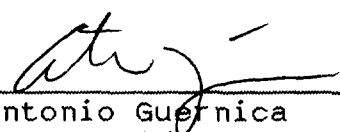
It is respectfully submitted that the FCC exercise patience. A previous and wise boss of mine used to say that "Siempre hay tiempo para hacer las cosas mal hechas." (There's always plenty of time to do things badly.) The message is that there are times that call for a great deal of patience, careful deliberation and a lot of hard work in order to get things right. This Rule Making is one of those times.

Notwithstanding the above and in view of the FCC's fanatical insistence in the premature implementation of ATV services, Los Cerezos strongly supports the implementation of every safeguard that favors the preservation of established and operating broadcast services, specifically including LPTV's.

Respectfully submitted,

LOS CEREZOS TELEVISION COMPANY

By


Antonio Guernica
Its President

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